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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/624,391

07/22/2003

Mark Galloway

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21999

7590

09/18/2006

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EXAMINER

AGRAWAL, RITESH

ART UNIT

PAPER NUMBER

1631

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/624,391

Applicant(s)

GALLOWAY ET AL.

Examiner

Ritesh Agrawal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08/28/06.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 23-26 is/are rejected.
- 7) ☒ Claim(s) 2-9 and 23-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Amendments*

1. Applicant's election without traverse of Group I (claims 1-9 and 23-26) in the reply filed on 02/21/06 is acknowledged.

Claims 10-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 02/21/06.

Applicant's amendment, filed 08/28/06, canceling claims 10-22 is acknowledged and entered.

### *Drawings*

2. The drawings are objected to because the small text to the side of figure 4 cannot be understood. Figure 5 uses the abbreviated term info. The separate sheets for figure 13 should be separately labeled fig. 13A, Fig. 13B, Fig. 13C. The separate sheets for figure 28, should be separately labeled fig. 28A, 28B, and 28C. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief

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description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it is longer than a single page and does not fall within the word limit. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following:

The use of the trademark GTECH has been noted in this application, for example on page 24 of the specification. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 and 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4-8 recite the phrase "stable point test". As written, the phrase can be interpreted to mean a test of stable points wherein only points of known stability are subjected to said test or stability in a point test wherein the value of the test remains stable in response to varying conditions.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board

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of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, independent claims 1-2, 9, and 23 recite the broad recitation existing, and the claims also recite latent that is the narrower statement of the range/limitation. Whereas existing maladies represent both active and inactive maladies, latent maladies refer to the inactive subset of existing maladies.

Claim 1 recites the limitation "customized filter" in line 17. There is insufficient antecedent basis for this limitation in the claim. It is unclear to which of the "customized filters" this refers (see line 11).

The term "appropriate" in claims 1, 5, 9, 23, and 24 is a relative term which renders the claim indefinite. The term "appropriate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 2 recites the limitation "data access stabilizing function" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the remedy scan function" in lines 31-32. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "customized filters" in line 5. There is insufficient antecedent basis for this limitation in the claim. Claim 2, from which it depends, recites only a single "customized filter."

Claim 9 recites the limitation "said reference point" in line 27. There is insufficient antecedent basis for this limitation in the claim. It is unclear to which of the "reference points" of line 27 this phrase refers.

Claim 9 recites the limitation "said meridian linking and diagnostic treatment device" in lines 30-31. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said filter" in line 32. There is insufficient antecedent basis for this limitation in the claim. The claim recites many different filters. It is unclear to which of these filters the phrase refers.

Claim 9 recites the limitation "said meridian network" in line 33. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said customized filter" in line 37. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said loaded products/remedies" in line 38. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "said system" in line 17. There is insufficient antecedent basis for this limitation in the claim. The claim refers to several systems. It is unclear to which of these systems the phrase refers.

Claim 23 recites the limitation "said customized filters" in line 17. There is insufficient antecedent basis for this limitation in the claim. Prior to this, independent claim 23 only refers to a single "customized filter."

Claim 23 recites the limitation "said malady" in line 19. There is insufficient antecedent basis for this limitation in the claim. It is unclear to which malady this refers. Claim 23 recites several different maladies.

Claim 23 recites the limitation "said single, most effective and appropriate product/remedy" in line 20. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Objections***

5. Claims 2-9, and 23-26 are objected to because of the following informalities:

Claim 2 contains the phrase "said filter testing function controls" in lines 23-24. The grammar needs to be corrected.

Claim 2 contains the phrase "of and" in line 35. The grammar needs to be corrected.

Claim 9 contains an improper Markush group "of a filter selected from" filters in lines 8-11.



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Claim 9 contains the phrase "linking filter links" in line 19. The grammar needs to be corrected.

Claim 9 contains the phrase "said stabilizing filter measures" in line 24. The grammar needs to be corrected.

Claim 23 contains the phrase "said customized filter stresses" in line 12. The grammar needs to be corrected.

Appropriate correction is required.

### ***Conclusion***

6. No claim is allowed. Claims 1-9 and 23-26 are free of the art searched.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ritesh Agrawal whose telephone number is (571) 272-2906. The examiner can normally be reached on 8:30 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ritesh Agrawal

 9/13/06